XIV
493

The Administrator General's Act 1874 As modified up to the 1st July 1890

WEST BENGAL SECRETARIAT LIBRARY

Year: 1890

Subject: Law and Legislation/Acts/The Administrator General's Act

Place: India

ARRANGEMENT OF SECTIONS.

PREAMBLE.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Local extent.
   Commencement.
2. Repeal of Acts.
3. Interpretation-clause.

PART II.

OF THE OFFICE OF ADMINISTRATOR GENERAL.

4. Designation of the Administrators-General in the three Presidencies.
5. Appointment, suspension and removal of Administrators General.
6. Qualification of future and continuance of existing incumbents.
7. Administrator General not an officer of High Court.
8. Probates, &c., granted by Supreme Courts to Ecclesiastical Registrars to have same effect as if granted to Administrator General.
9. No Administrator General to be Ecclesiastical Registrar.
   Administrator General not to hold any other office without sanction of Government.
10. Penalty for trading.
    Exception.
11. Security to be given by Administrator General.
    Substitution of security or sureties.
12. No security nor oath to be required from Administrator General.
13. Appointment of officiating Administrator General.

PART III.

PART III.

OF THE RIGHTS, POWERS AND DUTIES OF THE ADMINISTRATOR GENERAL.

(*a*) *Grants of Letters of Administration and Probate to the Administrator General.*

SECTIONS.

14. As regards Administrator General, High Court at Presidency-town to be deemed a Court of competent jurisdiction within meaning of Act X of 1865, sections 187 and 190.

15. Administrator General entitled to letters of administration, unless granted to next of kin.

Administrator General entitled in preference to creditor, non-universal legatee or friend.

16. When Administrator General is to administer estates of persons other than Hindús, &c.

17. Power to direct Administrator General to apply for administration.

Administration to effects of Hindús, &c., when granted under this section.

Costs of unnecessary application.

18. Power to enjoin Administrator General to collect and hold assets until right of succession or administration is ascertained.

Rate of commission payable in such case.

19. Grant of probate to executor appearing in the course of proceedings taken by Administrator General.

Costs of proceedings taken by Administrator General to be paid out of estate.

20. If no executor or next of kin appear or give necessary security, administration to be granted to Administrator General.

21. Administrator General in certain cases to secure and distribute the effects of soldiers.

Proviso.

22. Power to grant Administrator General letters limited to purpose of dealing with assets in accordance with Regimental Debts Act.

23. Administrator General not precluded from applying for letters within one month after death.

23A. Effect of probate or letters granted to Administrator General.

24. After revocation, letters granted to Administrator General to be deemed as to him to have been voidable only.

Exception.

Proviso.

25. Validity

SECTIONS.

25. Payments made by Administrator General prior to revocation.
26. Recall of Administrator General's administration, and grant of probate, &c., to executor or next of kin.
Time within which application to revoke must be made.
27. Costs of obtaining administration, &c., may, on revocation, be ordered to be paid to Administrator General out of assets.
28. Distribution of assets.
29 Letters to be granted to Administrator General by his name of office.
Authority given by such letters.
30. Grant of probate to Administrator General named as executor by virtue of his office.
31. Transfer by private executor or administrator of interest under probate or letters.
32. Appointment of Official Trustee as trustee of assets carried to separate accounts.
33. Vesting of estates, &c., in successor of Administrator General.

(*b*) *Suits by and against the Administrator General.*

34. Administrator General to sue and be sued in his name of office.
Suit not to abate by death, &c.
Proviso as to costs.
35. Creditors' suits against Administrator General.

(*c*) *Grant of Certificates by the Administrator General.*

36. In what case Administrator General may grant certificate.
No certificate where probate or administration granted or for money in Government Savings Bank.
37. Grant of certificate to creditors.
Proviso.
38. Administrator General not bound to grant certificate unless satisfied of claimant's title, &c.
39. Copy of certificate with receipt annexed, when signed by certificate-holder, to be a discharge.
Right of executor or administrator against certificate-holder.
Right of creditor against assets in hands of certificate-holder.
40. Administrator

SECTIONS.

40. Administrator General not bound to take out administration on account of effects for which he has granted certificate.
41. Fee for certificate.
41A. Transfer of certain assets from British India to executor or administrator in country of domicile for distribution.

(*d*) *Expenses of the Administrator General's Establishment.*

42. Administrator General to defray expenses of establishment.

(*e*) *Accounts and Schedules.*

43. Administrator General to keep separate account for each estate.
Accounts to be open to inspection on payment of fee.
44. Administrator General to furnish half-yearly schedules.
Schedules to be filed and published.
Copies of schedules.

PART IV.

OF THE AUDIT OF THE ADMINISTRATOR GENERAL'S ACCOUNTS.

45. Government to appoint auditors.
46. Auditors to examine schedules and report to Government.
47. Auditors to summon witnesses and to call for books, &c.
Penalty for non-attendance.
48. Costs of preparing schedules, &c.
49. Special report to Government if accounts appear incorrect.
50. Proceedings upon such report.
51. Costs of reference, &c., how to be defrayed.

PART V.

OF THE COMMISSION OF THE ADMINISTRATOR GENERAL.

52. Commission to be received by Administrators General.
53. Section 52 not to apply to property of officers and soldiers dying on service.
Commission on such property.
54. What expenses, &c., commission is to cover.
How payable.
Commission retained to be deemed a distribution.
55. Commission

SECTIONS.

55. Commission of Administrator General of Bengal may be raised and again reduced.
Commission of Administrators General of Madras and Bombay may be reduced and again raised.
Proviso.
55A. Commission on assets collected beyond Presidency.
56. Commission not to be charged by executor or administrator other than Administrator General.
Bequest in favour of executors not affected.

PART VI.

MISCELLANEOUS.

57. Power to make rules—
for custody of assets;
for remittance of money;
for guidance of Administrator General.
Proviso as to rules now in force.
58. Publication of new rules.
59. Power to decide when commission shall be deemed payable.
60. Orders of Court to be equivalent to decrees.
60A. Power to examine on oath.
61. False evidence.
62. Assets unclaimed for fifteen years to be transferred to Government.
Proviso.
63. Mode of proceeding by claimant to recover principal money so transferred.
64. District Judge in certain cases to take charge of property of deceased persons, and to report to Administrator General.
65. Act not to require administration of estates of soldiers, unless Administrator General authorized by Military Secretary or Committee of Adjustment.
66. Succession Act and Companies Act not to affect Administrator General.
Saving of provisions of Presidency Police Acts as to petty estates.
67. Compliance with requisitions for returns.

PART VII.

DIVISION OF THE PRESIDENCY OF BENGAL INTO PROVINCES.

68. Division of the Presidency of Bengal into Provinces.

BENGAL SECRETARIAT LIBRARY

ACT No. II OF 1874.*

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 10th February, 1874.)

An Act to consolidate and amend the law relating to the office and duties of Administrator General.

[As modified up to the 1st July, 1890.]

WHEREAS it is expedient to consolidate and amend the law relating to the office and duties of Administrator General; It is hereby enacted as follows :— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called the Administrator General's Act, 1874: Short title.

It extends to the whole of British India and, so far as regards British subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty; Local extent.

And it shall come into force at once. Commencement

2. Act No. XXIV of 1867 (*to consolidate and amend the law relating to the office and duties of Administrator* Repeal of Acts.

*Act II of 1874 has been declared in force in British Baluchistan—see Regulation I of 1890, s. 3; in the Sonthal Pergunnahs—see Regulation III of 1872, s 3, as amended by Regulation III of 1886, s. 2, and in the Hill District of Arakan—see Regulation IX of 1874, s. 3.

The Act has been declared, under the Scheduled Districts Act, 1874, to be in force in the following Scheduled Districts, namely, the Districts of Hazaribagh, Lohardugga and Manbhoom and Pergunnah Dhalbhoom and the Kolhan in the District of Singbhoom—see Gazette of India, 22nd October, 1881, Pt. I, p. 504.

The Act has been extended, under the same Act, to the North-Western Provinces Tarai—see Gazette of India, dated 23rd September, 1876, Pt I, p. 505.

Administrator General) and Act No. XIX *of* 1869 (*to facilitate administration to the estates of deceased British subjects in the Hyderabad Assigned Districts*) and Act No. V of 1870 (so far as it relates to the Administrator General) are hereby repealed.

All things duly done under any of the enactments hereby repealed shall be considered as having been done under this Act.

Interpretation clause.

3. In this Act, unless there be something repugnant in the subject or context,—

"Presidency of Bengal."

"Presidency of Bengal[a]" includes—

(*a*) the territories for the time being respectively under the governments of the Lieutenant-Governors of Bengal, the North-Western Provinces and the Punjab ;

(*b*) the territories for the time being respectively under the administration of the Chief Commissioners of Oudh, the Central Provinces, Burma,[b] Ajmere and Merwara, Assam and the Andaman and Nicobar Islands ;

(*c*) such of the dominions of Princes and States aforesaid as the Governor General in Council may, by notification[c] in the Gazette of India, from time to time direct[c] :

"Presidency of Madras."

"Presidency of Madras" includes—

(*a*) the territories for the time being under the government of the Governor of Fort St. George in Council ;

(*b*) such of the dominions aforesaid as the Governor General in Council may, by notification in the Gazette of India, from time to time direct[c] ;

(*c*) Coorg ;

(*d*) Mysore :

"Presidency

[a] For power to divide the "the Presidency of Bengal" into provinces, see s. 68, *infra*.

[b] "Burma" was substituted for "British Burma" in s. 3 by Act II of 1890, s. 10.

[c] For list of States notified under these clauses, see Appendix.

"Presidency of Bombay" means— "Presidency of Bombay."

(*a*) the territories for the time being under the government of the Governor of Bombay in Council [a]and under the administration of the Chief Commissioner of British Baluchistan[a];

(*b*) such of the dominions aforesaid as the Governor General in Council may, by notification in the Gazette of India, from time to time direct[b];

(*c*) the Hyderabad Assigned Districts;

"Presidency-town" means the town of Calcutta, Madras or Bombay, as the case may be: "Presidency-town."

"Government" means the Governor General in Council, so far as the Act relates to the Presidency of Bengal; the person for the time being administering the executive government of the Presidency of Fort St. George, so far as the Act relates to the Presidency of Madras; and the person for the time being administering the executive government of the Presidency of Bombay, so far as the Act relates to the Presidency of Bombay: "Government."

"letters of administration" shall include any letters of administration, whether general or limited, or with a will annexed, and letters *ad colligenda bona*: "Letters of Administration."

"next of kin" includes a widower or widow of a deceased person, or any other person who, by law and according to the practice of the Courts, would be entitled to letters of administration in preference to a creditor or legatee of the deceased: "Next of kin."

"officer" means a commissioned officer of Her Majesty's Army, or of Her Majesty's Indian Army: "Officer."

"soldier" means a soldier of Her Majesty's Army, or European soldier of Her Majesty's Indian Army, including a warrant and a non-commissioned officer: "Soldier."

"assets"

[a-a] These words in s 3 were added by Act II of 1890, s. 10.
[b] For list of States notified under this clause, see Appendix.

"Assets" "assets" includes immoveable as well as moveable property.

PART II.

OF THE OFFICE OF ADMINISTRATOR GENERAL.

Designation of the Administrators General in the three Presidencies

4. In each of the Presidencies of Bengal, Madras and Bombay, there shall be an Administrator General.*

The said Administrators General shall be called respectively the Administrator General of Bengal, the Administrator General of Madras, and the Administrator General of Bombay.

Appointment, suspension and removal of Administrators General

5. Such officers shall be appointed and may be suspended or removed by the authorities hereinafter mentioned, respectively; that is to say:—

the Administrator General of Bengal, by the Governor General in Council:

the Administrator General of Madras, by the Government of Fort St. George; and

the Administrator General of Bombay, by the Government of Bombay.

Qualification of future and continuance of existing incumbents.

6. Any person hereafter appointed to the office of Administrator General or officiating Administrator General of any of the said Presidencies shall be a member of the Bar of England or Ireland, or of the Faculty of Advocates in Scotland; but any person now holding such office shall continue to hold the same, subject to the provisions contained in the other sections of this Act.

Administrator General not an officer of High Court

7. The Administrator General shall not be deemed in that capacity to be an officer of any High Court.

Probates, &c., granted by Supreme Courts to Ec-

8. All probates and letters of administration granted by any of the late Supreme Courts of Judicature to the Ecclesiastical Registrar of such Court in

* For power to divide the "Presidency of Bengal" into provinces and to appoint an Administrator General for each province, see s. 68, *infra*

in virtue of his office shall have the same effect in all respects as to any act hereafter to be done or required to be done under this Act, as if they had been granted to the Administrator General.

Ecclesiastical Registrars to have same effect as if granted to Administrator General.

9. No person now holding the office of Administrator General, or hereafter to be appointed to such office in any of the said Presidencies, shall hold the office of Ecclesiastical Registrar; nor, without the express sanction of Government, any other office together with that of Administrator General:

No Administrator General to be Ecclesiastical Registrar.

Administrator General not to hold any other office without sanction of Government.

Provided that the Administrator General of the Presidency may be appointed Official Trustee under Act No. XVII of 1864[a] (*to constitute an office of Official Trustee*):

Provided also that the Administrator General of Bengal may hold the office of Receiver of the High Court of Judicature at Fort William.

Penalty for trading

10. It is hereby declared to be an offence punishable in manner provided by section 168 of the Indian Penal Code,[b] for any Administrator General to trade or traffic for his own benefit, or for the benefit of any other person, unless so far as appears to him to be expedient for the due management of the estates which come into his charge under the provisions of this Act, and for the sole benefit of the several persons entitled to the proceeds of such estates respectively; but this exception is not to be construed to alter the civil liabilities of the Administrator General as trustee of such estates

XLV of 1860

Exception

Security to be given by Administrator General

11. Unless the Governor General in Council, or the Government, with the sanction of the Governor General in Council, otherwise orders, every Administrator General hereafter to be appointed shall give security to the Secretary of State for India, for the due

[a] See the revised edition of Act XVII of 1864, as modified up to the 1st July, 1890, published by the Legislative Department.

[b] See the revised edition of the Indian Penal Code published by the Legislative Department in 1890.

due execution of his office, for one lakh of rupees by his own bond, and for another lakh of rupees, or for separate sums amounting together to one lakh of rupees, by the deposit of Government securities, or by the joint and several bond or bonds of two or more sureties to be approved by Government, or partly by such deposit and partly by such bond or bonds:

Substitution of security or sureties.

Provided that every Administrator General may, with the consent of Government, substitute either of the said two last-mentioned kinds of security for another previously given for such last-mentioned lakh or any part of it:

and every Administrator General may, with the consent of Government, and shall from time to time when required by Government so to do, cause fresh sureties to be substituted for any of those previously bound, so far as the security relates to the due execution of his office for the time then to come.

No security nor oath to be required from Administrator General

12. No Administrator General shall be required by any Court to enter into any administration-bond, or to give other security to the Court, on the grant of any letters of administration to him in virtue of his office.

No Administrator General shall be required to verify, otherwise than by his signature, any petition presented by him under the provisions of this Act, and, if the facts stated in any such petition are not within the Administrator General's own personal knowledge, the petition may be subscribed and verified by any person competent to make the verification.

Whoever makes a statement in any such petition which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

Appointment of officiating Administrator General.

13. Whenever any person holding the office of Administrator General obtains leave of absence, the Government may appoint some person to officiate as Administrator

Administrator General, and such person, while so officiating, shall be subject to the same conditions and be bound by the same responsibilities as the Administrator General by any law for the time being in force, and he shall be deemed to be Administrator General for the time being under this Act, and shall be liable to give security under section 11 in like manner as if he had been appointed Administrator General.

PART III.

OF THE RIGHTS, POWERS AND DUTIES OF THE ADMINISTRATOR GENERAL.

(*a*) *Grants of Letters of Administration and Probate to the Administrator General.*

As regards Administrator General, High Court at Presidencytown to be deemed a Court of competent jurisdiction within meaning of Act X of 1865, sections 187 and 190

14. So far as regards the Administrator General of any of the Presidencies of Bengal, Madras and Bombay, the High Court at the Presidency-town shall be deemed to be a Court of competent jurisdiction within the meaning of sections 187 and 190 of the Indian Succession Act, 1865,[a] wheresoever within the Presidency the property to be comprised in the probate or letters of administration may be situate.

X of 1865.

Administrator General entitled to letters of administration, unless granted to next of kin.

15. Any letters of administration, or letters *ad colligenda bona*, hereafter be[b] granted by the High Court of Judicature at any Presidency-town, shall be granted to the Administrator General of the Presidency, unless they are granted to the next of kin of the deceased.

Administrator General entitled in preference to creditor, non-universal legatee or friend.

The Administrator General of the Presidency shall be deemed by all the Courts in the Presidency to have a right to letters of administration in preference to that of any person merely on the ground of his being a

[a] See the revised edition of Act X of 1865, as modified up to the 1st July, 1890, published by the Legislative Department.

[b] *Sic read* to be.

a creditor, a legatee other than an universal legatee, or a friend of the deceased.

When Administrator General is to administer estates of persons other than Hindús, &c.

16. If any person, not being a Hindú, Muhammadan, Parsi[a] or Buddhist, or a person exempted under the Indian Succession Act, 1865,[b] section 332, from the operation of that Act, shall have died, whether within any of the said Presidencies or not, and whether before or after the passing of this Act, and shall have left assets exceeding at the date of the death or within one year thereafter the value of one thousand rupees within any of the said Presidencies, X of 1865.

and if no person to whom the Court would have jurisdiction to commit administration of such assets has, within one month after his death, applied in such Presidency for probate of his will, or for any letters of administration of his estate,

the Administrator General of the Presidency in which such assets are shall, within a reasonable time after he has had notice of the death of such person, and of his having left such assets as aforesaid, take such proceedings as may be necessary to obtain from the High Court at the Presidency-town letters of administration to the effects of such person, either generally or with a will annexed, as the case may require.

Whenever the Administrator General of the Presidency takes proceedings under this section, it shall be sufficient if the petition required by section 246 of the Indian Succession Act, 1865,[b] states— X of 1865.

(*a*) the time and place of the deceased's death, to the best of the petitioner's knowledge or belief,

(*b*) that the deceased left some property within the Presidency as hereinbefore defined, and

(*c*) the amount or value of assets which are likely to come into the petitioner's hands.

17. Whenever

[a] The word "Parsi" in s 16 was inserted by Act IX of 1881, s. 2

[b] See the revised edition of Act X of 1865, as modified up to the 1st July, 1890, published by the Legislative Department.

Power to direct Administrator General to apply for administration.

17. Whenever any person, whether a Hindú, Muhammadan, Parsi* or Buddhist, or not, shall have died leaving assets within the local limits of the ordinary original civil jurisdiction of the High Court at the Presidency-town, it shall be lawful for the Court,

upon the application of any person interested in such assets, or in the due administration thereof, either as a creditor, legatee, next of kin or otherwise, or

upon the application of a friend of any minor so interested, or

upon the application of the Administrator General,

if the applicant satisfies the Court that danger is to be apprehended of the misappropriation, deterioration or waste of such assets unless letters of administration of the effects of such person are granted,

to make an order, upon such terms as to indemnifying the Administrator General against costs and other expenses as the Court thinks fit, directing the Administrator General to apply for letters of administration of the effects of such person:

Administration to effects of Hindús, &c., when granted under this section.

Provided that, in the case of an application being made under this section for letters of administration to the effects of a deceased Hindú, Muhammadan, Parsi* or Buddhist, or person exempted as aforesaid, the Court may refuse to grant letters of administration to any person, if it be satisfied that such grant is unnecessary for the protection of the assets; and in such case the Court shall make such order as to the costs of the application as it thinks just.

Costs of unnecessary application.

Power to enjoin Administrator General to collect and hold assets until right of succession or administration is ascertained.

18. Whenever any person, whether a Hindú, Muhammadan, Parsi* or Buddhist, or not, shall have died, whether before or after the passing of this Act, leaving assets within the local limits of the ordinary original civil jurisdiction of any of the said High Courts,

and such Court is satisfied that danger is to be apprehended of the misappropriation, deterioration or waste

* The word "Parsi" in ss 17 and 18 was inserted by Act IX of 1881, s 2.

waste of such property, before it can be ascertained who may be legally entitled to the succession to such property, or whether the Administrator General is entitled to letters of administration to such deceased person,

the Court may authorize and enjoin the Administrator General to collect and take possession of such property, and to hold or deposit or invest the same according to the orders and directions of the Court, and in default of any such orders or directions according to the provisions of this Act so far as the same are applicable to such property;

Rate of commission payable in such case.

and the Administrator General shall be entitled to a commission of one *per centum* upon the amount of all moveable assets collected or received by him in pursuance of such order, and also to reimburse himself for all payments made by him in respect of the assets which a private administrator of such assets might lawfully have made;

and, in case letters of administration of any such property are afterwards granted to the Administrator General, the said commission of one *per centum* shall be deemed a part payment of the commission payable to the Administrator General under the letters of administration.

Any order of Court made under the provisions of this section shall entitle the Administrator General to collect and to take possession of such property, and, if necessary, to maintain a suit for the recovery thereof.

Grant of probate to executor appearing in the course of proceedings taken by Administrator General.

19. If in the course of proceedings to obtain letters of administration under the provisions of section 16 or section 17,

any executor appointed by a will of the deceased appears according to the practice of the Court and proves the will and accepts the office of executor,

or if any person appears according to such practice and makes out his claim to letters of administration as next of kin of the deceased, and gives such security

security as is required of him by law or by the practice of the Court,

the Court shall grant probate of the will or letters of administration accordingly, and shall award to the Administrator General his costs of the proceedings so taken by him, to be paid out of the estate as part of the testamentary or intestate expenses thereof. Costs of proceedings taken by Administrator General to be paid out of estate.

20. If no person appears according to the practice of the Court and entitles himself to probate of a will, or to a grant of letters of administration as next of kin of the deceased, If no executor or next of kin appear or give necessary security, administration to be granted to Administrator General.

or if the person who entitles himself to a grant of administration neglects to give such security as may be required of him by law or according to the practice of the Court,

the Court shall grant letters of administration to the Administrator General.

21. The Administrator General shall, when duly authorized or required so to do by the Military Secretary to Government, secure and distribute the assets of the estate and effects of any officer, soldier or other person subject to any Articles of War, in all cases in which such estate and effects do not exceed in the whole five hundred rupees, charging the estate with a commission of three *per centum* only. Administrator General in certain cases to secure and distribute the effects of soldiers.

It shall not be necessary for the Administrator General to take out letters of administration in cases referred to in this section: but he shall have the same powers with regard to all such assets as he would have had if he had taken out such letters. Proviso.

22. When the Administrator General applies for letters of administration to the effects of any officer, soldier or other person subject to the Articles of War, the Court may grant to him letters of administration limited to the purpose of dealing with such effects in accordance with the provisions of the Regimental Debts Act, 1863,[a] or any other law for the time being in Power to grant Administrator General letters limited to purpose of dealing with assets in

26 & 27 Vict., c. 57.

[a] Printed in the "Collection of Statutes relating to India," Ed. 1881, Vol. II, p. 770.

accordance with Regimental Debts Act.

in force relating to the payment of regimental debts and the distribution of the effects of officers dying on service.

Administrator General not precluded from applying for letters within one month after death.

23. Nothing in this Act is intended to preclude the Administrator General from applying to the Court for letters of administration in any case within the period of one month from the death of the deceased.

Effect of probate or letters granted to Administrator General

[*]**23A.** Probate or letters of administration granted by the High Court at Calcutta, Madras or Bombay to the Administrator General of the Presidency of Bengal, Madras or Bombay, as the case may be, shall have effect over all the property and estate, moveable or immoveable, of the deceased throughout such Presidency,

and shall be conclusive as to the representative title against all debtors of the deceased, and all persons holding property which belongs to him, and shall afford full indemnity to all debtors paying their debts, and all persons delivering up such property, to such Administrator General:

Provided that the High Court may direct, by its grant, that such probate or letters of administration shall have like effect throughout either or both of the other Presidencies.

Whenever a grant of probate or letters of administration is made by a High Court to the Administrator General, with such effect as last aforesaid, the Registrar of such Court shall send to each of the other two High Courts a certificate that such grant has been made, and such certificate shall be filed by the Court receiving the same.

After revocation, letters granted to Administrator General to be deemed

24. If any letters of administration granted to the Administrator General under the provisions of this Act be revoked or recalled, the same shall, so far as regards the Administrator General and all persons acting

[*] S 23A was inserted by Act IX of 1881, s 3.

acting under his authority in pursuance thereof, be deemed to have been only voidable, except as to any act done by any such Administrator General or other person as aforesaid, after notice of a will or of any other fact which would render such letters void:

as to him to have been voidable only. Exception.

Provided that no notice of a will or of any other fact which would render any such letters void shall affect the Administrator General or any person acting under his authority in pursuance of such letters, unless, within the period of one month from the time of giving such notice, proceedings be commenced to prove the will, or to cause the letters to be revoked, nor unless such proceedings be prosecuted without unreasonable delay.

Proviso.

25. If any letters of administration granted under this Act be revoked upon the production and proof of a will, all payments made or acts done by or under the authority of the Administrator General in pursuance of such letters of administration prior to the revocation thereof, which would have been valid under any letters of administration lawfully granted to him with such will annexed, shall be deemed valid notwithstanding such revocation.

Payments made by Administrator General prior to revocation.

26. If an executor or next of kin of the deceased, who has not been personally served with a citation or who has not had notice thereof in time to appear pursuant thereto, establish to the satisfaction of the Court a claim to probate of a will or to letters of administration in preference to the Administrator General, any letters of administration granted by virtue of this Act to the Administrator General may be recalled and revoked, and probate may be granted to such executor, or letters of administration granted to such other person as aforesaid:

Recall of Administrator General's administration, and grant of probate, &c., to executor or next of kin.

Provided that no letters of administration granted to the Administrator General shall be revoked or recalled for the cause aforesaid, except in cases in which a will or codicil of the deceased is proved in the

Time within which application to revoke must be made.

the Presidency, unless the application for that purpose be made within six months after the grant to the Administrator General, and the Court be satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application is made.

Costs of obtaining administration, &c., may, on revocation, be ordered to be paid to Administrator General out of assets.

27. If any letters of administration granted to the Administrator General in pursuance of this Act be revoked, the Court may order the costs of obtaining such letters of administration, and the whole or any part of any commission which would otherwise have been payable under this Act, together with the costs of the Administrator General in any proceedings taken to obtain such revocation, to be paid to or retained by the Administrator General out of any assets belonging to the estate:

Provided that, in any such case, when the deceased has left a will appointing an executor, and probate of the will has been granted by any Court in the Presidency to such executor within three months after the death,

or when the widow or next of kin has, within one month if resident within the Presidency, or within three months if resident beyond the Presidency, obtained from any such Court letters of administration to the estate and effects of the deceased,

then and in either of such cases the Administrator General shall (without prejudice to the provisions contained in sections 17 and 18) not be entitled to receive or retain any commission out of any assets belonging to such estate and situate within the jurisdiction of the Court by which probate or administration has been granted as last aforesaid.

Distribution of assets.

* 28. When the Administrator General has given such notices as would have been given by the High Court in an administration-suit, for creditors and others

* This section was substituted for the original s. 28 by Act IX of 1881, s. 4.

others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets or any part thereof in discharge of such lawful claims as he knows of, and shall not be liable for the assets so distributed to any person of whose claim he had not notice at the time of such distribution; and no notice of any claim shall affect him unless proceedings to enforce such claim are commenced within one month after the giving of such notice and prosecuted without unreasonable delay.

Nothing herein contained shall prejudice the right of any creditor or other claimant to follow the assets or any part thereof in the hands of the persons who may have received the same respectively

Letters to be granted to Administrator General by his name of office Authority given by such letters.

29. All letters of administration granted to any Administrator General in virtue of his office shall be granted to him by his name of office,

and all letters of administration heretofore granted to the Ecclesiastical Registrar or Administrator General officially, or granted to any Administrator General in virtue of his office, shall authorize the Administrator General for the time being of the same Presidency to act as administrator of the estate to which such letters relate.

Grant of probate to Administrator General named as executor by virtue of his office.

30. Every probate granted to any Administrator General of a will wherein he is named as executor by virtue of his office shall be granted to him by his name of office, and shall authorize the Administrator General for the time being of the same Presidency to act as executor of the estate to which such probate relates.

Transfer by private executor or administrator of interest under probate or letters.

31. Any private executor or administrator may, with the previous consent of the Administrator General of the Presidency in which the property comprised in the probate or letters of administration is situate, by an instrument in writing under his hand,* notified in

* Certain words of s 31 referring to stamp-duty, which were repealed by Act I of 1879, have been omitted. For stamp-duty, see now Sch I, Art. 60, cl. (*c*), of that Act, in General Acts, 1877—81, p 304.

in the local Gazette, transfer all estates, effects and interests vested in him by virtue of such probate or letters to the Administrator General by his name of office;

and thereupon the transferor shall be exempt from all liability as such executor or administrator, as the case may be, for any act or omission in respect of the said property after the date of the said transfer:

and the Administrator General for the time being shall have the rights and be subject to the liabilities which he would have had, and to which he would have been subject, if the probate or letters of administration, as the case may be, had been granted to him by his name of office at the date aforesaid.

Nothing herein contained shall be taken to exempt any such transferor from liability for acts and omissions in respect of the said property prior to the transfer.

Appointment of Official Trustee as trustee of assets carried to separate accounts.

32. Whenever the Administrator General carries over assets to separate accounts in his books, he shall notify the fact in the local Official Gazette; and he may, with the consent of the Official Trustee, and subject to such rules as the Governor General in Council may from time to time prescribe in this behalf, appoint the Official Trustee to be the trustee of such assets; and upon such appointment such assets shall vest in the Official Trustee and his successors in office, and be held by him and them upon the same trusts as the same assets were held immediately before such appointment. And for the purposes of Act No. XVII of 1864* such assets shall be deemed to have been vested in the Official Trustee under section 10 of that Act.

Vesting of estates, &c., in successor of Administrator General.

33. All estates, effects and interests which, at the time of the death, resignation or removal from office of any Administrator General, are vested in him by virtue of such letters of administration, probates or transfers

* See the revised edition of Act XVII of 1864 as modified up to the 1st July, 1890, published by the Legislative Department.

transfers as aforesaid, shall, upon every such death, resignation or removal, cease to be vested in him, and shall vest in his successor in office immediately upon his appointment thereto.

All books, papers and documents kept by such Administrator General by virtue of his office or as such executor or transferee as aforesaid shall be transferred to and vested in his successor in office.

(b) Suits by and against the Administrator General.

Administrator General to sue and be sued in his name of office.

34. All suits and other proceedings commenced by or against any Administrator General in his representative character may be brought by or against him by his name of office,

Suit not to abate by death, &c.

and no suit or other proceeding heretofore or hereafter commenced by or against any person as Administrator General, either alone or jointly with any other person, shall abate by reason of the death, resignation or removal from office of any such Administrator General; but the same may, by order of the Court, and upon such terms as to the service of notices or otherwise as the Court may direct, be continued by or against his successor immediately upon his appointment, in the same manner as if no such death, resignation or removal had occurred:

Proviso as to costs.

Provided that nothing hereinbefore contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the suit against him.

Creditors' suits against Administrator General.

35. If any suit be brought by a creditor against any Administrator General in his representative character, the plaintiff shall be liable to pay the costs of the suit down to and including the decree, unless upon proof by affidavit or otherwise that not less than one month previous to the institution of the suit he had applied in writing to the Administrator General, stating the amount and other particulars of the claim, and supporting the same by such evidence as, under the

the circumstances of the case, the Administrator General was reasonably entitled to require, and that the Administrator General had refused or neglected to register the claim according to the practice of his office.

If in any such suit judgment is pronounced in favour of the plaintiff, he shall, nevertheless, be only entitled to payment out of the assets of the deceased equally and rateably with the other creditors.

(c) *Grant of Certificates by the Administrator General.*

In what case Administrator General may grant certificate.

36. Whenever any person* shall have died, whether within any of the said Presidencies or not, whether before or after the passing of this Act, and whether testate or intestate, and shall have left assets (whether moveable or immoveable, or both) within any of the said Presidencies, and the Administrator General of such Presidency is satisfied that such assets do not exceed in the whole one thousand rupees in value,

he may, after the lapse of one month from the death if he thinks fit, or before the lapse of the said month if he is requested so to do by writing under the hand of the executor or the widow or other person entitled to administer the effects of the deceased, grant to any person, claiming otherwise than as a creditor to be entitled to a share of such assets, certificates under his hand entitling the claimant to receive the property therein mentioned, belonging to the estate of the deceased, to a value not exceeding in the whole one thousand rupees:

No certificate where probate or administration granted or for money in Government Savings Bank

Provided that no certificate shall be granted under this section where probate of the deceased's will or letters of administration of his effects has or have been granted, or in respect of any sum of money deposited in a Government Savings Bank.

37. If,

* Certain words of s 36, which were repealed by Act IX of 1881, s 5, have been omitted

Grant of certificate to creditors.

37. [a]"If, in cases falling within section 36, no person claiming otherwise than as a creditor to be entitled to a share of the effects of the deceased obtains, within three months, a certificate from the Administrator General under the same section, or letters of administration to the estate and effects of the deceased, and such deceased was not a Hindú, Muhammadan, Parsi or Buddhist, or exempted under the Indian Succession Act, 1865,[b] section 332, from the operation of that Act, the Administrator General may administer the estate and effects without letters of administration, in the same manner as if such letters had been granted to him;"[a]

X of 1865.

and if he neglect or refuse to take upon himself the administration of the estate and effects, he shall, upon the application of a creditor and upon being satisfied of his title, grant a certificate in the same manner as if such creditor were entitled to a share of the effects of the deceased,

and such certificate shall have the same effect as a certificate granted under the provisions of the same section, and shall be subject to all the provisions of this Act which are applicable to such certificate:

Proviso.

Provided that the Administrator General may, before granting such certificate, if he think fit, require the creditor to give reasonable security for the due administration of the estate and effects of the deceased.

Administrator General not bound to grant certificate unless satisfied of claimant's title, &c.

38. The Administrator General shall not be bound to grant any [c]certificate under section 36 or 37,[c] unless he be satisfied of the title of the claimant and of the value of the assets of the deceased, either by the oath or

---

[a] This first paragraph of s 37 was substituted for the original paragraph by Act II of 1890, s 11 (*I*).

[b] See the revised edition of Act X of 1865, as modified up to the 1st July, 1890, published by the Legislative Department.

[c] These words in s. 38 were substituted for the original words by Act IX of 1881, s 6.

or affirmation of the claimant,[a] or by such other evidence as he requires.

Copy of certificate with receipt annexed, when signed by certificate-holder, to be a discharge

39. A copy of any such certificate with a receipt annexed shall, when such copy and receipt are signed by the person to whom the certificate has been granted, be a full discharge for payment or delivery to him of the money or security for money therein mentioned, to the person paying or delivering the same:

Right of executor or administrator against certificate-holder.

but nothing in this Act shall preclude any executor or administrator of the deceased from recovering, from the person receiving the same, the amount remaining in his hands after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration.

Right of creditor against assets in hands of certificate-holder.

And any creditor or claimant against the estate of the deceased shall be at liberty to recover his debt or claim out of the assets received by such person and remaining in his hands unadministered, in the same manner and to the same extent as if such person had obtained letters of administration to the estate of the deceased.

Administrator General not bound to take out administration on account of effects for which he has granted certificate.

40. The Administrator General shall not be bound to take out letters of administration to the estate of any deceased person on account of the effects in respect of which he grants any such certificate, but he may do so if he discover any fraud or misrepresentation made to him, or that the value of the estate exceeded one thousand rupees.

Fee for certificate.

41. For every such certificate the Administrator General shall be entitled to charge a fee calculated after the rate of three rupees in the hundred on the amount mentioned in the certificate.

Transfer of certain assets from British

[b]**41A** Where a person not having his domicile in British India has died leaving assets both in British India

---

[a] Certain words of s. 38, which were repealed by Act IX of 1881, s 6, have been omitted

[b] S. 41A was inserted by Act II of 1890, s. 12.

India and in the country in which he had his domicile at the time of his death, and proceedings for the administration of his estate with respect to assets in British India have been taken under section 36 or section 37, and there has been a grant of administration in the country of domicile with respect to the assets in that country,

India to executor or administrator in country of domicile for distribution.

the holder of the certificate granted under section 36 or section 37, or the Administrator General, as the case may be, after having given such notices as the High Court may by any general rule to be made from time to time prescribe, for creditors and others to send in to him their claims against the estate of the deceased, and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons.

(*d*) *Expenses of the Administrator General's Establishment.*

Administrator General to defray expenses of establishment.

42. The Administrator General shall defray all the expenses of the establishment necessary for his office, and all other charges to which the said office is subject, except those for which express provision is made by this Act.

(*e*) *Accounts and Schedules.*

Administrator General to keep separate account for each estate.

43. The Administrator General of each of the said Presidencies shall enter into books, to be kept by him for that purpose, separate and distinct accounts of each estate, and of all such sums of money, bonds and other securities for money, goods, effects and things as come to his hands, or to the hands of any person employed by him or in trust for him under this

this Act; and likewise of all payments made by him on account of such estate, and of all debts due by or to the same, specifying the dates of such receipts and payments respectively.

Accounts to be open to inspection on payment of fee.

Such books shall be kept in the Administrator General's office, and shall be open for the inspection of all such persons, practitioners in the said Courts and others, as may have occasion to inspect the same, at office hours, paying only such reasonable fee for the time being fixed by the Government and published in the official Gazette of the Presidency to which the same may relate.

Administrator General to furnish half-yearly schedules.

44. The Administrator General of each of the said Presidencies shall twice in every year, that is to say, on or before the first day of April, and on or before the first day of October, or on such other days as the Government, by any rules or orders to be published as aforesaid, may direct, exhibit and deliver, in the High Court at Calcutta, Madras or Bombay, as the case may be,—

(*a*) a schedule showing the gross amount of all sums of money received or paid by him on account of each estate in his charge, and the balances, during the period of six months ending severally on the thirty-first day of December and thirtieth day of June next before the day of delivering such schedule,

(*b*) a list of all bonds or other securities received on account of each of the said estates during the same period,

(*c*) a schedule of all administrations whereof the final balances have been paid over to the persons entitled to the same, during the same period, specifying the amount of such balances and the persons to whom paid.

Schedules to be filed and published.

Such schedules shall be filed of record in such High Court, and shall, within fourteen days afterwards,

wards, be published in the official Gazette of the Presidency by the Administrator General;

and copies thereof in triplicate shall be delivered by such Administrator General to the Government, and shall be sent by such Government to the Secretary of State for India, in order that such Secretary may, if he think fit, order the same to be deposited at the India Office for public inspection, and cause notices to be published in the London Gazette and other leading newspapers that such schedules are open to inspection there, or make such other orders respecting the same as he thinks fit. Copies of schedules.

PART IV.

OF THE AUDIT OF THE ADMINISTRATOR GENERAL'S ACCOUNTS.

45. The Government shall from time to time appoint auditors to examine the accounts of the Administrator General at the times of the delivery of the said schedules, and also at any other time when the Government thinks fit. Government to appoint auditors.

46. The auditors shall examine the schedules and accounts, and report to the Government— Auditors to examine schedules and report to Government.

(*a*) whether they contain a full and true account of everything which ought to be inserted therein,

(*b*) whether the books which by this Act, or by any such general rules and orders as hereinafter mentioned, are directed to be kept by the Administrator General, have been duly and regularly kept, and

(*c*) whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or by any such rules and orders to be made as aforesaid.

47. Every

Auditors to summon witnesses and to call for books, &c.

47. Every auditor shall have power to summon as well the Administrator General, as any other person whose presence he thinks necessary, to attend him from time to time; and to examine the Administrator General or other person if he thinks fit, on oath or affirmation to be by him administered; and to call for all books, papers, vouchers and documents which appear to him to be necessary for the purposes of the said reference.

If the Administrator General or other person when summoned refuses, or, without reasonable cause, neglects to attend or to produce any book, paper, voucher or document so required, or attends and refuses to be sworn or make an affirmation, or refuses to be examined, the auditors shall certify such neglect or refusal in writing to the High Court at the Presidency town;

Penalty for non-attendance.

and every person so refusing or neglecting shall thereupon be punishable in like manner as if such refusal or neglect had been in contempt of the said High Court.

Costs of preparing schedules, &c

48. The costs and expenses of preparing and publishing the said schedules and copies thereof, and of every such reference and examination as aforesaid, shall be defrayed by all the estates to which such schedules or accounts relate.

Such costs and expenses, and the portion thereof to be contributed by each of the said estates, shall be ascertained and settled by the auditors, subject to the approval of the Government, and shall be paid out of the said estates accordingly by the Administrator General.

Special report to Government if accounts appear incorrect.

49. If upon any such reference and examination the auditors see reason to believe that the said schedules do not contain a true and correct account of the matters therein contained or which ought to be therein contained, or that the assets have not been duly kept and invested or deposited in the manner directed

directed by this Act, or by any such rules and orders as aforesaid, or that the Administrator General has failed to comply with the provisions and directions of this Act or of any such rules and orders, they shall report accordingly to the Government.

Proceedings upon such report

50. The Government may refer every such report as last aforesaid to the consideration of the Advocate General for the Presidency, who shall thereupon, if he think fit, proceed summarily against the defaulter or his executor or administrator in the High Court in the Presidency-town, by petition for an account, or to compel obedience to this Act or to such rules and orders as aforesaid, or otherwise as he may think fit, in respect of all or any of the estates then or formerly under the administration of such defaulter;

and the said Advocate General may exhibit interrogatories to the said Administrator General, executor or administrator (hereinafter called the defendant), who shall be bound to answer the same as fully as if a commission had been issued under the provisions of the Code of Civil Procedure[a] for his examination upon the said interrogatories.

XIV of 1882

The Court shall have power upon any such petition to compel the attendance in Court of the defendant and any witnesses who may be thought necessary, and to examine them orally or otherwise as the said Court thinks fit, and to make and enforce such order or orders as the Court thinks just.

Costs of reference, &c, how to be defrayed.

51. The costs, including those of the Advocate General and of the reference to him, if the same be directed by the Court to be paid, shall be defrayed either by the defendant or out of the estates rateably as the said Court directs; and whenever any costs are recovered from the defendant the same shall be repaid to the estates by which they have been in the first instance contributed; and the Court may, if it think fit,

[a] This reference to Act VIII of 1859 should now be read as applying to Act XIV of 1882—see s 8 of the latter Act

fit, order the defendant to receive his costs out of the said estates.

PART V.

OF THE COMMISSION OF THE ADMINISTRATOR GENERAL.

Commission to be received by Administrators General.

52. The Administrator General of each of the said Presidencies, under any letters of administration granted to him in his official character, or under any probate granted to him of a will wherein he is named as executor by virtue of his office, or under any probates or letters of administration vested in him by section 8 or section 31, shall be entitled to receive a commission at the following rates respectively, namely:—

The Administrator General of Bengal at the rate of three *per centum*, and the Administrators General of Madras and Bombay respectively at the rate of five *per centum*, upon the amount or value of the assets which they respectively collect and distribute in due course of administration.

Section 52 not to apply to property of officers and soldiers dying on service.

53. The last preceding section shall not apply to cases in which the property of an officer or soldier dying on service comes to the hands of the Administrator General of any of the said Presidencies, under the 9th or the 12th section of the Statute called the Regimental Debts Act, 1863;[a] 26 & 27 Vict., c. 57.

Commission on such property.

and such Administrator General shall not take a percentage on any such property exceeding three *per centum* on the gross amount coming to his hands after the passing of the Administrator General's Act, 1865,[b] if preferential charges as defined by the 4th section of the said Statute have been previously paid, IV of 1865.

or

[a] Printed in the "Collection of Statutes relating to India," Ed. 1881 Vol II, p. 770

[b] Act IV of 1865 was repealed by Act XXIV of 1867.

or on the gross amount remaining in his hands after payment by him of such charges, as the case may be. What expenses, &c., commission is to cover.

54. The Administrator General shall be entitled to reimburse himself for any payments made by him in respect of any estate in his charge, which a private administrator of such estate might have lawfully made; but, save as aforesaid, the commission to which the Administrator General of each of the said three Presidencies shall be entitled is intended to cover, not merely the expense and trouble of collecting the assets, but also his trouble and responsibility in distributing them in due course of administration.

It is therefore enacted that one half of such commission shall be payable to and retained by such Administrator General upon the collection of the assets, and the other half thereof shall be payable to the Administrator General who distributes any assets in the due course of administration, and may be retained by him upon such distribution. How payable.

The amount of the commission lawfully retained by an Administrator General upon the distribution of assets shall be deemed a distribution in the due course of administration within the meaning of this Act. Commission retained to be deemed a distribution

Explanation.—The carrying of assets to separate accounts in the books of the Administrator General notified as hereinbefore provided, and the transfer of assets to the Official Trustee, shall each be deemed to be a distribution within the meaning of this section.

55. The Governor General in Council may from time to time order the rate of commission hereinbefore authorized to be received by the Administrator General of Bengal to be raised to any rate not exceeding five *per centum* upon the amount or value of the assets which he collects and distributes in due course of administration, and again to be reduced. Commission of Administrator General of Bengal may be raised and again reduced.

The Governments of the Presidencies of Fort St. George and Bombay respectively may, with the sanction Commission of Administrators

General of Madras and Bombay may be reduced and again raised.

tion of the Governor General in Council, from time to time order the aforesaid rate of commission hereby authorized to be received by the Administrators General of Madras and Bombay respectively to be reduced, and again to be raised:

Proviso.

Provided that the commission so to be received shall not at any time exceed five *per centum* of the assets collected, and that no person now holding the office of Administrator General of Bengal, Madras or Bombay shall, by any such order, be deprived of the right to receive and retain, for his own use, a commission at the rate of three *per centum* in respect of all assets collected and actually administered by him.

Commission on assets collected beyond Presidency.

[a]**55A.** Notwithstanding anything hereinbefore contained, an Administrator General of a Presidency obtaining probate or letters of administration operating in another Presidency shall be entitled to the same rate of commission in respect of the collection and distribution of assets collected in such Presidency as the Administrator General of such Presidency would have been entitled to if such assets had been collected and distributed by him, and to no higher rate.

Commission not to be charged by executor or administrator other than Administrator General.

56. No person other than the Administrator General acting officially shall receive or retain any commission or agency charges for anything done as executor or administrator under any probate or letters of administration, or letters *ad colligenda bona*, which have been granted by the Supreme Court or High Court at Fort William in Bengal since the passing of Act No. VII of 1849[b] (*for the appointment of an Administrator General in Bengal*), or by either of the Supreme or High Courts at Madras and Bombay since the passing of Act No. II of 1850[b] (*to amend and extend*

[a] S. 55A was inserted by Act IX of 1881, s. 7.

[b] Acts VII of 1849 and II of 1850 were repealed by Act VIII of 1855, s. 56.

extend to Madras and Bombay Act No. VII of 1849), or which have been or shall be granted by any Court of competent jurisdiction within the meaning of sections 187 and 190 of the Indian Succession Act, 1865[a]; X of 1865.

but this enactment shall not prevent any executor or other person from having the benefit of any legacy bequeathed to him in his character of executor, or by way of commission or otherwise. Bequest in favour of executors not affected.

PART VI.

MISCELLANEOUS.

57. The Government may from time to time make rules consistent with the provisions of this Act— Power to make rules—

(*a*) for the safe custody of the assets and securities which come to the hands or possession of the Administrator General; for custody of assets;

(*b*) for the remittance to the India Office of all sums of money payable or belonging to persons resident in Europe, or in other cases where such remittances are required; for remittance of money;

(*c*) generally for the guidance of the Administrator General in the discharge of his duties; for guidance of Administrator General.

and may by such rules amongst other things direct what books, accounts and statements, in addition to those mentioned in this Act, shall be kept by the Administrator General, and in what form the same shall be kept, and what entries the same shall contain, and where the same shall be kept, and where and how the assets and securities belonging to the estates to be administered by such Administrator General shall be kept and invested or deposited pending the administration thereof, and how and at what rate or rates of exchange any remittances thereof shall be made.

Unless any such rules are made and published, the rules now in force in each of the said Presidencies, so far Proviso as to rules now in force.

[a] See the revised edition of Act X of 1865, as modified up to the 1st July, 1890, published by the Legislative Department.

far as the same are not inconsistent with this Act, shall be of the same force and effect as if the same had been made and published hereunder.

Publication of new rules.

58. Such rules shall be published in the Gazette of India, the Fort St. George Gazette, or the Bombay Government Gazette, as the case may be, and the several Administrators General shall obey and fulfil the same, and the same shall be a full authority and indemnity for all persons acting in pursuance thereof.

Power to decide when commission shall be deemed payable.

59. The Governor General in Council may from time to time, either by general rule, or by special order in a particular case, decide any question as to the time at which any commission accruing to the Administrator General in his official capacity shall be deemed to have been payable; and such decision shall bind every Administrator General and the estates held by him in his official capacity.

Orders of Court to be equivalent to decrees

60. Any order made under this Act by any Court shall have the same effect and be executed in the same manner as a decree.

Power to examine on oath.

*[60A.** The Administrator General may, whenever he desires, for the purposes of this Act, to satisfy himself regarding any question of fact, examine upon oath or affirmation (which he is hereby authorized to administer or take) any person who is willing to be so examined by him regarding such question.

False evidence.

61. Whoever, having been sworn or having taken an affirmation under this Act, makes upon any examination authorized by this Act a statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

Assets unclaimed for fifteen years to be transferred to Government.

62. All assets in the official charge of the Administrator General of any of the said Presidencies, and appearing from the official books and accounts of the Ecclesiastical Registrar and of the Administrator General of any of those Presidencies, or from the official books

*S 60A was inserted by Act IX of 1881, s 8

books and accounts of any of those officers, to have been in official custody for a period of fifteen years or upwards without any claim thereto having been made and allowed, shall be transferred and paid to the Comptroller General of Accounts or to the Accountant General to the Government of Fort St. George or Bombay, as the case may be, and be carried to the account and credit of the Government of India for the general purposes of government;

and the receipt of the said Comptroller General or Accountant General, as the case may be, shall be a full indemnity and discharge to the said Administrator General for any such transfer or payment:

Proviso. Provided that this Act shall not authorize the transfer or payment of any such proceeds as aforesaid, pending any suit heretofore or hereafter instituted in respect thereof.

Mode of proceeding by claimant to recover principal money so transferred. 63. If any claim be hereafter made to any part of the securities, moneys or proceeds carried to the account and credit of the Government of India under the provisions of this Act, and if such claim be established to the satisfaction of the Comptroller General or the Accountant General to the Government of Fort St. George or Bombay, as the case may be, the Government of India shall pay to the claimant the amount of the principal so carried to its account and credit or so much thereof as appears to be due to the claimant.

If the claim be not established to the satisfaction of the said Comptroller General or Accountant General, as the case may be, the claimant may apply by petition to the High Court at the Presidency-town against the Secretary of State for India, and, after taking evidence either orally or on affidavit in a summary way as the Court thinks fit, the Court shall make such order on the petition for the payment of such portion of the said principal sum as justice requires, and such order shall be binding on all parties to the suit,

and the Court may direct by whom the whole or any part of the costs of each party shall be paid.

64. Whenever

District Judge in certain cases to take charge of property of deceased persons, and to report to Administrator General.

64. Whenever any person, other than a Hindú, Muhammadan, Parsí[a] or Buddhist or a person exempted under the Indian Succession Act, 1865,[b] section 332, X of 1865. from the operation of that Act, dies leaving assets within the limits of the jurisdiction of a District Judge, the District Judge shall report the circumstance without delay to the Administrator General of the Presidency, stating the following particulars so far as they may be known to him:—

(*a*) the amount and nature of the assets,

(*b*) whether or not the deceased left a will, and, if so, in whose custody it is,

and, on the lapse of one month from the date of the death,

(*c*) whether or not any one has applied for probate of the will of the deceased or letters of administration to his effects.

The District Judge shall retain the property under his charge, or appoint an officer under the provisions of the Indian Succession Act, 1865,[b] section 239, to take X of 1865. and keep possession of the same until the Administrator General has obtained letters of administration, or until some other person has obtained such letters or a certificate from the Administrator General under the provisions of this Act, when the property shall be delivered over to the person obtaining such letters of administration or certificate, or, in the event of a will being discovered, to the person who may obtain probate of the will.

[c]The District Judge may cause to be paid out of any property of which he or such officer has charge, or out of the proceeds of such property or of any part thereof, such sums as may appear to him to be necessary for all or any of the following purposes, namely:—

(*a*) the payment of the expenses of the funeral of the

[a] The word "Parsí" in s. 64 was inserted by Act IX of 1881, s. 2.

[b] See the revised edition of Act X of 1865, as modified up to the 1st July, 1890, published by the Legislative Department.

[c] This paragraph of s. 64 was added by Act II of 1890, s. 13.

the deceased and of obtaining probate of his will or letters of administration to his estate and effects,

(*b*) the payment of wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan or domestic servant, and

(*c*) the relief of the immediate necessities of the family of the deceased,

and nothing in section 279, section 280 or section 281 of the Indian Succession Act, 1865,[a] or in any other law for the time being in force with respect to rights of priority of creditors of deceased persons, shall be held to affect the validity of any payment so caused to be made.

X of 1865.

Act not to require administration of estates of soldiers, unless Administrator General authorized by Military Secretary or Committee of Adjustment.

65. Nothing in this Act is intended to require the Administrator General to take proceedings to obtain letters of administration to the estate or effects of any officer or soldier or other person subject to any Articles of War, unless when the Administrator General is duly authorized or required so to do by the Military Secretary to Government, or by a Committee of Adjustment or other officers or persons acting under any law for the time being in force relating to the payment of regimental debts;

nor is anything in this Act contained intended to interfere with or alter the provisions of any Act of Parliament for regulating the payment of regimental debts and the distribution of the effects of officers and soldiers dying in the service of Her Majesty in India, or of any Articles of War.

Succession Act and Companies Act not to affect Administrator General.

X of 1865
VI of 1882

63. Nothing contained in the Indian Succession Act, 1865,[a] or the Indian Companies Act, 1882,[b] shall be taken to supersede or affect the rights, duties and privileges of the Administrators General and Official Trustees.

[a] See the revised edition of Act X of 1865, as modified up to the 1st July, 1890, published by the Legislative Department.

[b] The reference to Act X of 1865 has been amended in accordance with Act VI of 1882, s. 2.

ing Administrators General of Bengal, Madras and Bombay respectively.

Saving of provisions of Presidency Police Acts as to petty estates.

And nothing contained in the Indian Succession Act, 1865, or in this Act, or in the said Act No. XXIV of 1867,[a] shall be deemed to affect, or to have affected, any provisions[b] for the time being in force relating to the moveable property under two hundred rupees in value of persons dying intestate within any of the Presidency-towns, which shall be or has been taken charge of by the police for the purpose of safe custody. X of 1865.

Compliance with requisitions for returns.

[c]67. The Administrator General shall comply with such requisitions as may be made by the Government for returns and statements, in such form and manner as the Government may deem proper.

PART VII.[d]

DIVISION OF THE PRESIDENCY OF BENGAL INTO PROVINCES.

Division of the Presidency of Bengal into Provinces.

68. (*1*) Notwithstanding anything in the foregoing provisions of this Act, the Governor General in Council, upon the occurrence of any vacancy in the office of the Administrator General of Bengal, may, by notification in the Gazette of India,—

(*a*) divide the Presidency of Bengal, as defined in this Act, into so many Provinces as he thinks fit,

(*b*) define the limits of each of those Provinces, and

(*c*) appoint an Administrator General for each Province,

and, subject to the provisions of this section, the following consequences shall thereupon ensue, namely :—

(i) the office of Administrator General of Bengal shall cease to exist :

(ii) the

[a] Act XXIV of 1867 is repealed by this Act—see s. 2, *supra*.

[b] See Bengal Act IV of 1866, ss. 100, 101 (in Bengal Code, Vol. II, Ed. 1890, pp. 78, 79); Madras Act III of 1888, s. 30; and (as to Bombay) Act XIII of 1856, ss. 113, 114 (in Bombay Code, Ed. 1890, pp. 86, 87).

[c] S. 67 was added by Act II of 1890, s. 14.

[d] Part VII was added by Act II of 1890, s. 15.

(ii) the Administrator General of a Province shall have the like rights and privileges, and perform the like duties, in the territories and dominions included in the Province, as the Administrator General of Bengal had and performed as Administrator General therein:

(iii) the functions of the Government under this Act shall, as regards the territories and dominions included in a Province, be discharged by the Governor General in Council:

(iv) the functions of whatsoever kind assigned by the foregoing provisions of this Act to the High Court at Calcutta in respect of the territories and dominions included in a Province shall be discharged by such High Court as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf, and probate or letters of administration granted to the Administrator General of the Province by the High Court so appointed shall have the same effect throughout the Presidency of Bengal, as defined in this Act, or, if the Court so directs, throughout British India, as, but for the abolition of the office of Administrator General of Bengal, probate or letters of administration granted to the holder of that office by the High Court at Calcutta would have had:

(v) in the foregoing provisions of this Act the word "Presidency" shall be deemed to include a Province, the expression "Presidency-town" the place of sitting of a High Court appointed by the Governor General in Council under clause (iv) of this sub-section, and the expression "Advocate General" a Government Advocate or other officer appointed by the Governor General in Council to discharge for a Province the functions under

under this Act of an Advocate General for a Presidency:

(vi) the provisions of this Act with respect to the commission of the Administrator General of Bengal shall regulate the commission payable to the Administrator General of a Province: and,

(vii) generally, the provisions of the foregoing sections of this Act with respect to the High Court at Calcutta, and the provisions of those sections or of any other enactment with respect to the Administrator General of Bengal, shall, in relation to a Province, be construed, so far as may be, to apply to the High Court and Administrator General, respectively, appointed for the Province under this section.

(*2*) Any proceeding which was commenced before the publication of the notification dividing the Presidency of Bengal into Provinces, and to or in which the Administrator General of Bengal in his representative character was a party or was otherwise concerned, shall be continued as if the notification had not been published, and the Administrator General of the Province in which the Town of Calcutta is comprised shall for the purposes of the proceeding be deemed to be the successor in office of the Administrator General of Bengal.

(*3*) The Court of the Recorder of Rangoon shall be deemed to be a High Court for the purposes of clause (iv) of sub-section (*1*).

(*4*) Notwithstanding any division of the Presidency of Bengal, as defined in this Act, into Provinces under this section, the Administrator General of the Province in which the Town of Calcutta is comprised shall be deemed to be the Administrator General for the whole of the said Presidency for the purposes of the Regimental Debts Act, 1863.* 26 & 27 Vict. c. 57.

APPENDIX.

* Printed in the "Collection of Statutes relating to India," Ed. 1881, Vol. II, p. 770.

APPENDIX.

List of Native States included within the Presidencies of Bengal, Madras and Bombay, respectively, by notification under section 3 of Act II of 1874.

Presidency	States	Year, Part and Page of Gazette of India
BENGAL . .	BENGAL— Hill Tipperah. Kuch Bihar The Tributary Mahals of Chota Nagpore The Tributary Mahals of Cuttack ASSAM— The States in the Jaintia and Khasi Hills Manipur. NORTH-WESTERN PROVINCES— Rámpur. Tehri (Garhwál). PUNJAB— Lágh il Baghát. Balsan. Bashahr. Bhajji Bhawalpur Bíjá Chamba. Darkuti. Dhámi. Dujáná Faridkot Hindúr (Nábágarh) Jabbal Jummoo and Kashmir Jind Kahlúr (Bilaspur). Kalsia Kapurthala Keonthal Kumhársain Kunhiár. Kuthár. Lháru. Mailog Máler Kotla. Mandi Mangul. Nábha Patandi. Patiala.	1878, Part I, p 438.

List of Native States included within the Presidencies of Bengal, Madras and Bombay, respectively, by notification under section 3 of Act II of 1874—contd.

Presidency.	States.	Year, Part and page of Gazette of India
BENGAL—*contd.*	PUNJAB—*contd.* Sángri Sirmúr (Náhan). Suket. Taroch. RAJPUTANA AGENCY— Bhurtpore. Bikanir. Bundi. Dholpur. Jaipur Jaisalmir. Jhalawár Jodhpur or Márwár Kerauli Kishengarh. Kotah Lawa The Mewaira parganas belonging to Meywár and Marwár Shahpura. Tonk (with the exception of Nimbhera, Piniwa and Sirony). Ulwar. CENTRAL INDIA AGENCY— Gwalior (the whole State, excepting the Sir Subahship of Malwa and certain districts under the Sir Subah of Esangarh, which are included in the Presidency of Bombay) *Bandelkand and Baghelkhand States and Chiefships*— Ajaigarh Alipura Lámi. Behat. Behri. Bi onda Bhaisanda. Bijáwar Bijna Chatrapur. Chirkhari Dhattia Dhurwai.	1878, Part I, p 439

List of Native States included within the Presidencies of Bengal, Madras and Bombay, respectively, by notification under section 3 of Act II of 1874—contd.

Presidency.	States.	Year, Part and page of Gazette of India.
BENGAL—*concld.*	CENTRAL INDIA AGENCY—*contd.*	
	Bandelkand and Baghelkhand States and Chiefships—contd.	
	Gerauli.	
	Gaurihar.	
	Jasau.	
	Jigni.	
	Kamiadhana.	
	Kamta Rijola.	
	Kathi.	
	Lughasi.	
	Muihir.	
	Nágod.	
	Naugaon.	
	Orchha.	
	Pahari Banka.	
	Pahara.	
	Paldeo.	
	Punna.	
	Rewah.	
	Sampthar.	1878, Part I, p. 438.
	Sohawal.	
	Surila.	
	Taraon.	
	Tori Fatehpur.	
	Holkar's district of Alampur.	
MADRAS . .	Banganapalle.	
	Cochin.	
	Pudukottai.	
	Sandur.	
	Travancore.	
	The Dominions of His Highness the Nizam of Hyderabad.	
BOMBAY . .	Baroda.	
	Cambay.	
	Cutch.	
	Jawar.	
	Jinjira.	
	Khairpur in Sind.	
	Kolhapur.	
	Narukote.	
	Peint.*	

* Peint is now part of British India—see Gazette of India, 1885, Part I, p. 512.

(*Appendix*)

List of Native States included within the Presidencies of Bengal, Madras and Bombay, respectively, by notification under section 3 of Act II of 1874—contd.

Presidency	States	Year Part and page of Gazette of India
BOMBAY—*contd*	The Satara Jagirs. Savanur Savantwari The Southern Mahratta States The States in Kandesh Ditto Kattywar Ditto Mahi Kanta Ditto Palanpur Ditto Rewa Kanta Ditto Surat. RAJPUTANA AGENCY— Bánswára Dungarpur *The Jhalra Patan, Districts of*— Dig Gangvá Pach Pahár Oodeypur or Meywar Pertabgarh. Serohi *The Tonk Districts of*— Nimbhera. Pirawa Sironj THE FEUDATORY STATES IN THE CENTRAL PROVINCES— Bámra Bastár Kánker Karond or Kalahandi Kawárda Khairágarh Makrá Nundgaon Patna Ráigarh Párgarh. Rairakhol Sárangarh. Satki Sonpur	1878, Part I, p 438

List of Native States included within the Presidencies of Bengal, Madras and Bombay, respectively, by notification under section 3 of Act II of 1874 —contd

Presidency	States	Year Part and page of Gazette of India
BOMBAY—*contd*	CENTRAL INDIA AGENCY—	
	Barwai	
	Barwani	
	Bhopal (the whole State)	
	Dewas	
	Dhar	
	Indore (the whole State excepting the district of Alampur)	
	Jaora	
	Jhalna	
	Jobat	
	Kathiwára	
	Kishipur	
	Maksúdangarh	
	Mathwar	
	Muhammadgarh	
	Narsinghgarh	
	Rajgarh	
	Rajpur Ali	
	Ratlam	
	Ruttun Mal	
	Sailana	
	Sitaman	
	Gwalior Districts of—	1878, Part I p 438.
	Agar Amjhira Bág Dikthán Manhsur Nimach Sagar Shujawalpur Sirkach Ujjain	With the several pargunas subordinate thereto included in the charge of Sindhia's Sir Subah of Malwa.
	Bhilsa Garj Barola Malhargarh	With the several pargunas subordinate thereto, which form part of the charge of Sindhia's Sir Subah of Esangarh
	The States under the Bhil Agency	
	Ditto Deputy Bhil Agency	
	Ditto Gunah Agency	
	Ditto Western Malwa Agency	

List of Native States included within the Presidencies of Bengal, Madras and Bombay, respectively, by notification under section 3 of Act II of 1874—concld.

Presidency	States.	Year, Part and page of Gazette of India
BOMBAY—*concld*	BALUCHISTAN AGENCY— The territories of His Highness the Khan of Kelat The territories administered by the Agent to the Governor General in Baluchistan as such Agent.	1890, Part I, p 247

Govt of India Central Printing Office.—No 51 L D.—10-7-90.—5,000.—A McL.